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ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			EXAMINER PUENTE, EVA YI ZHENG	
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ptoactions@yahoo.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TERESA H. MENG, DAVID SU, and MASOUD ZARGARI

Appeal 2009-003292
Application 09/416,098
Technology Center 2600

Decided: March 3, 2010

Before: KENNETH W. HAIRSTON, ROBERT E. NAPPI, and MARC S. HOFF, *Administrative Patent Judges.*

HOFF, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING

INTRODUCTION

Appellants' Request for Rehearing, filed October 19, 2009, contends that we erred in our Decision on Appeal entered August 17, 2009, in which we affirmed the rejection of claims 1, 4, 5, 8, 9, 15, 18, 19, 22, 23, 29, 31, 34, and 35 under 35 U.S.C. § 112, first paragraph. Appellants assert that the Board's interpretation of the claims to require carrier frequency offset correction and sampling frequency offset correction to occur "*simultaneously*" or "*at the same time*" is erroneous in light of the content of Appellants' Specification (Req. for Reh'g 2).

OPINION

We maintain the rejection of claims 1, 4, 5, 8, 9, 15, 18, 19, 22, 23, 29, 31, 34, and 35 under 35 U.S.C. § 112, first paragraph, as failing to satisfy the enablement requirement.

Appellants assert that the claims nowhere recite "*simultaneous*" or "*same time*" occurrence of carrier frequency offset correction and frequency offset correction, and that requiring such simultaneous occurrence reflects a technically flawed understanding of the subject matter disclosed and claimed (Req. for Reh'g 2).

According to Appellants, the Examiner is mistaken in stating that such carrier frequency offset correction and sampling frequency offset correction must be separately performed, and the two corrections are not feasible in combination (Req. for Reh'g 2-3; Ans. 5). Appellants contend that the Specification and Drawings as originally filed disclose applying the two types of frequency offset corrections at different stages of processing (Req.

for Reh’g 5). Appellants assert that Figure 3 illustrates carrier frequency offset correction being applied to the carrier signal frequency during “modulation,” at block 304 (*Id.*). Figure 5 illustrates sampling frequency offset correction being applied outside of the modulation process, during rate conversion and interpolation (Fig. 5, block 506), well after modulation of the data signal has occurred (Fig. 5, block 504).

First, we are not persuaded by Appellants’ characterization of the Specification. FIG. 3 illustrates a transmitter in a remote unit that corrects for *carrier* frequency offsets in accordance with a first embodiment of the invention (Spec. 6). The detailed description of Figure 3 makes no mention of any correction for *sampling* frequency offsets (Spec. 10). FIG. 5 illustrates a transmitter in a remote unit that corrects for *sampling* frequency offsets in accordance with a second embodiment of the invention (Spec. 6). The detailed description of Figure 5 makes no mention of any correction for *carrier* frequency offset (Spec. 11-12). Appellants’ argument that the disclosed sampling frequency offset correction occurs after modulation of the data signal has occurred fails to establish that the modulation disclosed in Figure 5 includes any carrier frequency offset correction. The data modulation that takes place at block 504 is not disclosed to include any such carrier frequency offset correction (Spec. 12).

Second, assuming *arguendo* that Appellants correctly characterize the Specification as disclosing that carrier frequency offset correction is applied at a different moment than sampling frequency offset correction, Appellants have failed to refute the Examiner’s finding that the Specification fails to describe how carrier frequency offset and sampling frequency offset are

corrected together (Ans. 6; Decision 10). Each independent claim contains limitations requiring that the two offset corrections occur in the same device: “adjusting the common carrier *and* sampling frequencies” (claims 1 and 15); “produce offset information ... indicative of offsets between respective common frequency offsets between respective common frequency references locally used for the carrier *and* sampling frequencies” (claim 29); “produce analog offset signals ... indicative of offsets between respective common frequency references locally used for the carrier *and* sampling frequencies” (claim 31); “means for detecting ... comparative offsets between respective common frequency references used for the carrier *and* sampling frequencies” (claims 34 and 35); and “correct for errors in the carrier frequency *and* sampling frequency references” (claims 1, 15, 29, 31, 34, and 35). As we stated in the Decision, we find no disclosure in the Specification or Drawings of how carrier frequency offset correction and sampling frequency offset correction could be implemented together other than that remote unit 100 may contain a receiver that *either* corrects for carrier frequency offset *or* sampling frequency offset, but not *both* (Decision 11).

Therefore, Appellants have not shown any points which we misapprehended or overlooked in our Decision.

CONCLUSION

In summary, we have granted Appellants’ request for rehearing to the extent that we have reconsidered our decision rejecting claims 1, 4, 5, 8, 9, 15, 18, 19, 22, 23, 29, 31, 34, and 35 under 35 U.S.C. § 112, first paragraph,

as failing to satisfy the enablement requirement, but we decline to modify the decision in any way.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

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REHEARING DENIED

ELD

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043